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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,011	01/25/2002	Tetsu Kimura	450100-4630.1	5065

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EXAMINER

LE, UYEN T

ART UNIT	PAPER NUMBER
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2163

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,011

Applicant(s)

KIMURA ET AL.

Examiner

Uyen T. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant submitted English translations of foreign applications from which priority is claimed. Therefore, the rejection of claims 5-24 using Nakatani is withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 5, 9-12, 15-17, 20, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Togawa (US 5,930,226).

Regarding claim 5, Togawa discloses the claimed unit recording means, setting means and identification information recording means (see Figures 1-5).

Claims 9, 10 correspond respectively to a method and computer product of apparatus claim 5, thus are rejected for the same reasons stated in claim 5 above.

Claim 11 essentially is a broader version of claim 5, thus is rejected for the same reasons stated in claim 5 above.

Claim 16 corresponds to a method for claim 11, thus is rejected for the same reasons stated in claim 11 above.

Claims 12, 17 merely recite the same limitation of claim 5 regarding the identification information recording means, thus are rejected for the same reasons discussed in claim 5 above.

Regarding claim 15, Togawa discloses input means, control means and recording mean (see Figures 1-3) including setting longer recording units for video and audio data (see Figure 25).

Claim 20 corresponds to a method for claim 15, thus is rejected for the same reasons stated in claim 15 above.

Claim 21 essentially corresponds to a method for claim 5, thus is rejected for the same reasons stated in claim 5 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6-8, 13, 14, 18, 19, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Togawa (US 5,930,226).

Claim 6 merely reads on the fact that audio and video data need be retrieved in an uninterrupted manner while computer data tolerates delays. Therefore, it would have been obvious to one of ordinary skill in the art to set the length of the unit of AV data longer than the length of the unit of computer data in the system of Togawa in order to allow uninterrupted retrieval of AV data.

Regarding claim 7, Togawa discloses a plurality of blocks (see Figure 9). Although Togawa does not explicitly show that data is recorded into an area of any block equal to or larger than one half the block, it would have been obvious to one of

ordinary skill in the art to do so while implementing the system of Togawa since audio and video data need be retrieved in an uninterrupted manner. By recording in at least half of the block, the system is prevented from having an empty buffer while waiting for the data to be retrieved from the next block.

Claim 8 merely repeats the concept of recording data in at least half of the block, thus is rejected for the same reasons stated in claim 7 above.

Claims 13, 18 recite the same limitations of claim 6, thus are rejected for the same reasons stated in claim 6 above.

Regarding claim 14, although Togawa does not specifically show setting audio and video data longer than 4Mbytes, it would have been obvious to one of ordinary skill in the art to do so in order to reproduce video and audio data seamlessly.

Claim 19 recites the same limitations of claim 14, thus is rejected for the same reasons stated in claim 14 above.

Claims 22-24 essentially correspond to a method for claims 6-8, thus are rejected for the same reasons stated in claims 6-8 above.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen T. Le whose telephone number is 571-272-4021. The examiner can normally be reached on M-F 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



16 May 2005

UYEN LE
PRIMARY EXAMINER